

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

GEOFFREY PESCE,

Plaintiff,

v.

KEVIN F. COPPINGER, in his official
capacity as Essex County Sheriff, AARON
EASTMAN, in his official capacity as
Superintendent of the Essex County House of
Corrections - Middleton,

Defendants.

Civil Action No. 18-cv-11972

REQUEST FOR ORAL ARGUMENT

**PLAINTIFF’S EMERGENCY MOTION FOR A TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiff Geoffrey Pesce hereby respectfully requests that this Court issue a temporary restraining order and preliminary injunction requiring the Defendants, Kevin F. Coppinger, Sheriff of Essex County, and Aaron Eastman, Superintendent of the Essex County House of Corrections – Middleton (“Middleton HOC”), to provide Plaintiff with continued access to the methadone treatment prescribed by his physician during his incarceration under Defendants’ custody, on the grounds that denying Plaintiff access to his medication constitutes 1) deliberate indifference to serious medical need in violation of the Eighth Amendment’s prohibition against cruel and unusual punishment and 2) unlawful discrimination against Plaintiff on the basis of disability and denial of reasonable accommodations in violation of the Americans with Disability Act.

There is clear and present danger that in the absence of injunctive relief, Plaintiff, who is currently expected to be sentenced and taken into custody during his scheduled appearance on

September 24, 2018 in Ipswich District Court in Essex County, Massachusetts, will suffer severe immediate and lasting medical harm from the denial of his methadone treatment. There is particular urgency in this case because upon entering Middleton HOC, Plaintiff is expected to be subjected to a physically agonizing process for withdrawal of methadone treatment that is likely to jeopardize his recovery from opioid use disorder and increase his risk of relapse and death. As a result, Plaintiff seeks an order to preserve the status quo until this matter can be heard.

In support of this Motion, Plaintiff relies on his Complaint, the Memorandum of Law submitted herewith, and the declarations and exhibits attached thereto. Plaintiff states that he has a likelihood of success on the merits of his claims that Defendants' conduct will violate Defendants' rights under the Eighth Amendment and the ADA; that Plaintiff is likely to suffer irreparable harm if the order is not granted; that the potential harm to Plaintiff if the order is not granted outweighs the potential harm to Defendants if the order is granted; and that issuance of the order is in the public interest.

WHEREFORE, Plaintiff respectfully requests that this Court grant Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction and award his requested relief in the form of the Proposed Order attached as Exhibit A.

REQUEST FOR ORAL ARGUMENT

Plaintiff request the Court convene a hearing at its earliest possible convenience before September 24, 2018, when Mr. Pesce is expected to be incarcerated. Plaintiff further believes that oral argument would assist the Court in consideration of the issues presented in this Motion and, accordingly, request to be heard on this Motion pursuant to Local Rule 7.1(d).

Dated: September 19, 2018

Respectfully submitted,

GEOFFREY PESCE

By his attorneys,

/s/ Robert Frederickson, III

Robert Frederickson III (BBO# 670111)

Michael Pickett (BBO# 698618)

GOODWIN PROCTER LLP

100 Northern Avenue

Boston, Massachusetts 02210

Tel.: 617.570.1000

Fax.: 617.523.1231

RFrederickson@goodwinlaw.com

MPickett@goodwinlaw.com

Ira Levy (*Pro hac vice* pending)

Alexandra Valenti (*Pro hac vice* pending)

Jenny Zhang (BBO# 689838)

GOODWIN PROCTER LLP

The New York Times Building

620 Eight Avenue

New York, NY 10018

Tel.: 212.813.8800

Fax.: 212.355.3333

ILevy@goodwinlaw.com

AValenti@goodwinlaw.com

JZhang@goodwinlaw.com

Matthew R. Segal (BBO # 654489)

Jessie J. Rossman (BBO # 670685)

Daniel L. McFadden (BBO # 676612)

American Civil Liberties Union

Foundation of Massachusetts, Inc.

211 Congress Street

Boston, MA 02110

(617) 482-3170

msegal@aclum.org

jrossman@aclum.org

dmcfadden@aclum.org

Attorneys for Plaintiff

LOCAL RULE 7.1 CERTIFICATION

The undersigned counsel certifies pursuant to Local Rule 7.1 that Plaintiff's counsel made a good faith effort to resolve the parties' dispute through a pre-suit demand letter to which no response has been received. Due to the urgent nature of the requested relief, counsel have not yet had an opportunity to meet and confer with Defendants or their counsel.

/s/ Robert Frederickson, III